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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,756	10/15/2001	Suzanne K. Borchers	14711.36	3970

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DANA L. TANGREN  
WORKMAN NYDEGGER & SEELEY  
1000 EAGLE GATE TOWER  
60 EAST SOUTH TEMPLE  
SALT LAKE CITY, UT 84111

EXAMINER

SPISICH, MARK

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/977,756

Applicant(s)

BORCHERDS, SUZANNE K.

Examiner

Mark Spisich

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-16 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-16 and 18-20 is/are allowed.
- 6) ☒ Claim(s) 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings were received on 6 April 2004. These drawings are approved.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang (USP 6,105,196) in view of Borchers et al (USP 5,946,780) and Gillis (USP 6,015,242). The patent to Chang discloses a spherical bathing sponge (10) formed by forming a mesh tube (12) into a band by stretching it onto a pair of spaced apart posts (24,26) and securing the band at two spaced apart locations (by the cords 14 and 16) so as to produce a substantially spherical sponge. The patent to Chang discloses the invention substantially as claimed with the exception of the formation of plural bands and the positioning of "soap, a toy, or a stuffed animal" into a central pocket of the spherical sponge. The patent to Borchers teaches both the use of a single band (see fig 1) as well as plural bands (9 and 10 in fig 4). It would have been obvious to one of ordinary skill to have modified the device of Chang by using more than one band for the same reason(s) set forth at column 4, lines 59-64 of Borchers. With respect to the "positioning" step of claim 21 (line 8), the patent to Gillis discloses the positioning of a bar of soap (14) within a central pocket of a bathing ball during the assembly thereof. It

Art Unit: 1744

would have been obvious to have incorporating such a soap bar into the ball of Chang so that the user would not need a secondary supply of soap. With respect to claims 22 and 23, the soap bars (14) themselves can be said to be not connected to the sponge as well as indirectly connected thereto by the band or cord (40).

4. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang (USP 6,105,196) in view of Borchers et al (USP 5,946,780) and Sorrell (USP 6,368,003). See paragraph #3 above for all of the recited steps with the exception of the "positioning" step. The patent to Sorrell discloses positioning a soap bar (42) in an interior portion of a bathing ball. It would have been obvious to one of ordinary skill to have positioned such a soap bar into the bathing ball of Chang for the same reason set forth above. As the bar (42) in fig 2 is removable, it can be said to not be connected (at least directly) to the sponge (20) (claim 22) while the cord (32) can be said to at least indirectly connected the bar (42) to the sponge (20) claim 23).

#### ***Allowable Subject Matter***

5. Claims 1,3-16 and 18-20 are allowed.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 21-23 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Trachtenberg is further cited to show the attachment of an object to a bathing ball.

Art Unit: 1744

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (6-3:30), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1744

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich  
Primary Examiner  
Art Unit 1744

MS